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SENATE

{ REPORT
{ No. 1954

DELMA L. MAUZEY

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5955]

The Committee on the Judiciary, to which was referred the bill (H. R. 5955) for the relief of Delma L. Mauzey, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to authorize the Secretary of the Treasury to pay Delma L. Mauzey, of Leitchfield, Ky., the sum of \$480, which sum represents the amount of fees earned by Mr. Mauzey for services rendered as United States commissioner for the judicial district of Kentucky during the period from November 1, 1946, through October 31, 1950.

STATEMENT

Mr. Mauzey was United States commissioner in the western district of Kentucky, having first been appointed to that position by the United States district court for that district, effective August 15, 1938. He submitted accounts for fees for services rendered as a United States commissioner for quarterly periods from November 1, 1946, through July 31, 1951.

The fees claimed in the accounts covering the period November 1, 1946, through October 31, 1950, were disallowed by the Administrative Office of the United States Courts on the ground that the claimant did not file his accounts with the clerk's office until November 16, 1951, and were, therefore, over 1 year old. Title 28, section 636, United

States Code, provides that fees of a commissioner, for which the United States is liable, shall be paid only upon rendition of accounts within 1 year after performance of services. If the accounts had been submitted within the statutory period they would have been paid inasmuch as there is no contention that the services were not rendered by claimant herein.

In a letter submitted to the Honorable Pat McCarran, chairman, Senate Judiciary Committee, under date of March 29, 1952, claimant stated that his reports were not filed within the statutory period because he was in poor health and was unable to secure necessary clerical help. The committee believes that one having a valid claim should enforce it within the statutory time unless prevented by unforeseen circumstances. In the past Congress has enacted similar legislation where circumstances were so unusual that the claimant was precluded from filing accounts because of extenuating reasons. In view of the statement submitted by claimant that illness and lack of the necessary help prevented him from filing his claim within the statutory period, the committee believes that such reasons are sufficiently valid to merit the grace of Congress.

For the foregoing reasons, the committee recommends that the bill (H. R. 5955) be favorably considered.

Attached to this report and made a part thereof are reports from the Administrative Office of the United States Courts and other evidentiary data submitted in connection with this claim.

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
Washington 13, D. C., January 18, 1952.

HON. EMANUEL CELLER,
*Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR CONGRESSMAN CELLER: For Mr. Chandler I acknowledge receipt of your letter of January 10, 1952, requesting information regarding H. R. 5955, a bill for the relief of Delma L. Mauzey.

Mr. Mauzey was United States commissioner in the western district of Kentucky, having first been appointed to that position by the United States district court for that district effective August 15, 1938. He submitted accounts for fees for services rendered as a United States commissioner for quarterly periods from November 1, 1946, through July 31, 1951. The total of the accounts submitted amounted to \$508.50 in basic fees. Of the above total \$28.50 represented fees earned by the former commissioner after his commission had been set aside by the United States District Court for the Western District of Kentucky and the total, if the accounts had been rendered within 1 year as provided by statute (28 U. S. C. 636), which Mr. Mauzey could have been allowed would have been \$480, the amount indicated in H. R. 5955. Mr. Mauzey performed the services and in that respect the claim is meritorious. Whether compensation should be authorized by special action of Congress for these services, however, is a question of legislative policy outside the province of this Office.

The bill (H. R. 5955) appears to be correct in every particular except in line 1, on page 2, the word "account" should be changed to "accounts."

If the bill is enacted it would appear that the basic fees of \$480 would be subject to increases allowed under the Federal Employees' Pay Acts of 1945 and 1946 which would raise the amount to \$720. Photostats of the vouchers showing the total deducted and a letter dated December 11, 1951, to Mr. Mauzey informing him of the action taken with regard to the accounts he submitted are enclosed.

With kind regards,
Sincerely yours,

ELMORE WHITEHURST,
Assistant Director.

LEITCHFIELD, KY., December 15, 1951.

Hon. FRANK CHELF,
House of Representatives, Washington, D. C.

DEAR FRANK: I am enclosing a letter from the Administrative Office of the United States Courts, Supreme Court Building, Washington 13, D. C., which is in part self-explanatory.

My total bill is \$508.50, of which sum \$480 was for services when I was in an appointive status and \$28.50 when I was not in an appointive status. I am willing to waive the \$28.50 (although the communication to me was misplaced and I did not find it until after the work was done), but as to the \$480 it seems to me only fair, just, and right that I should receive it.

The services were performed and the work done in good faith; and just because reports were belatedly made, does not change the fact that the "laborer is worthy of his hire," at least that is the way our juries here usually look at a plea of limitations if they have a chance to pass on the matter where there is disputed question of fact. I could point out that for a time I was in poor health and my work piled up on me.

The only way, I think, open for me to be paid the \$480 is for a special act to be passed by Congress in the premises, and I am going to ask you to introduce such a bill. As you were in the practice of law, you can appreciate that a fee of \$480 is too large to lose it you can honorably get it.

I shall appreciate hearing from you in regard to the matter.

With best personal regards, and wishing you and yours a Merry Christmas and a Happy New Year, I remain

Your friend,

DELMA L. MAUZEY, *Attorney at Law.*

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS,
Washington 13, D. C., December 11, 1951.

Mr. DELMA L. MAUZEY,
Former United States Commissioner, Leitchfield, Ky.

DEAR MR. MAUZEY. We have completed our examination of the accounts submitted by you for services rendered as United States commissioner during the period November 1, 1946, through July 31, 1951, and are obliged to inform you that we have no alternative other than to disallow all fees claimed therein.

The fees claimed in the accounts covering the period November 1, 1946, through October 31, 1950, have been disallowed since they were not filed in the clerk's office until November 16, 1951, and are, therefore, over 1 year old. Title 28, section 636, United States Code provides that fees of a commissioner, for which the United States is liable, shall be paid only upon rendition of accounts within 1 year after performance of services.

The fees claimed in the account for the quarter ended July 31, 1951, have been disallowed since you were not in an appointment status at the time the services were rendered. Our records indicate that the United States District Court for the Western District of Kentucky issued an order on October 5, 1950, which set aside and canceled the order dated August 1, 1950, covering your reappointment as United States commissioner.

Regretting the necessity of having to take this action, I am,

Sincerely yours,

V. A. CLEMENTS, *Chief Auditor.*

LEITCHFIELD, KY., March 29, 1952.

Re: H. R. 5955

Hon. PAT McCARRAN,
United States Senate, Washington, D. C.

DEAR SENATOR: I would like to call your attention to the above bill now in the United States Senate for my relief. It is admitted by the Government that I performed the services amounting to \$480, which would now be increased to \$720; but that I did not file my request for payment within the year provided. I would respectfully point out that the Senate is not a court except for impeachment purposes and that this amount can be paid to me only by legislative action.

The reasons I did not file my reports promptly are that I was in poor health and was unable to secure the necessary help in my work. As far as I know, the

statutes of limitations in all the States can be tolled by acknowledgments, new promises, or any act of the debtor evidencing an intention to pay. As I have pointed out, the Senate is not a court; but certainly from a general equitable principle, I would say that during all this time the Government kept me as United States Commissioner and that very fact, it appears to me, evidences an intention of the Government to pay for services rendered. "The laborer is worthy of his hire."

The Administrative Office of the United States Courts says this amount would now accumulate to \$720, but I am willing to waive the increase of \$240. I feel like that from all equitable standards I should be paid this: viz, \$480.

Yours very truly,

DELMA L. MAUZEY

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DELMA L. MAUZEY, Attorney at Law

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

Washington 25, D. C., December 15, 1951.

Mr. Delma L. Mauzey, Commissioner, Federal Reserve Bank, St. Louis, Missouri.
Dear Mr. Mauzey: We have completed our examination of the accounts submitted by you for services rendered as United States Commissioner during the period November 1, 1948, through July 31, 1951, and are pleased to inform you that we have no objections other than to submit an amended statement. The fees claimed in the account covering the period November 1, 1948, through October 31, 1950, have been disallowed since they were not filed in the court. Our records indicate that the United States District Court for the Western District of Kentucky issued an order on October 3, 1950, which set aside and cancelled the order dated August 1, 1950, covering your resignation as United States Commissioner. The fees claimed in the account for the period ended July 31, 1951, have been disallowed since you were not in an appointment status at the time the services were rendered. Our records indicate that the United States District Court for the Western District of Kentucky issued an order on October 3, 1950, which set aside and cancelled the order dated August 1, 1950, covering your resignation as United States Commissioner. In view of the fact that the United States District Court for the Western District of Kentucky issued an order on October 3, 1950, which set aside and cancelled the order dated August 1, 1950, covering your resignation as United States Commissioner, the fees claimed in the account for the period ended July 31, 1951, have been disallowed since you were not in an appointment status at the time the services were rendered. Our records indicate that the United States District Court for the Western District of Kentucky issued an order on October 3, 1950, which set aside and cancelled the order dated August 1, 1950, covering your resignation as United States Commissioner.

Respectfully suggesting the necessity of having to take this action, I am,

Sincerely yours,
V. A. GORMAN, Clerk of Court.

INTRODUCED BY: March 28, 1952.

Re: H. R. 5955

Hon. Pat McGowan,

(United States Senate, Washington, D. C.)

Dear Senator: I would like to call your attention to the above bill now in the United States Senate for my relief. It is submitted by the Government that I performed the services amounting to \$180, which would now be increased to \$720; but that I did not file my request for payment within the year provided. I would respectfully point out that the Senate is not a court, except for impeachment purposes, and that the amount can be paid to me only by legislative action. The reason I did not file my request promptly was that I was in poor health and was unable to secure the necessary help in my work. As far as I know, the